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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

MELVIN FOSTER,

Defendant and Appellant.

B263513

(Los Angeles County
Super. Ct. No. BA422931)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Laura F. Priver, Judge. Affirmed.

Pamela J. Voich, under appointment by the Court of Appeal, for Defendant
and Appellant.

No appearance for Plaintiff and Respondent.

Appellant Melvin Foster appeals from the judgment entered following his negotiated plea of guilty to possession of a controlled substance (cocaine) for sale. (Health & Saf. Code, § 11351; count 2.) The court sentenced appellant to prison for a total of six years. We affirm.

FACTUAL and PROCEDURAL BACKGROUND

The record reflects that on March 11, 2014, Los Angeles Police Officer Pablo Soto searched appellant's bedroom in a residence on East 46th Street in Los Angeles County. Soto found 24.91 grams net weight of a packaged substance containing heroin, a plastic bindle containing 6.69 grams net weight of a substance containing cocaine, and two loaded handguns. Appellant had over \$800 on his person. Soto, an expert in the possession and sale of heroin and cocaine, opined appellant possessed the heroin and cocaine for sale.

Based on the March 11, 2014 incident, a felony complaint was filed. At the conclusion of appellant's August 28, 2014 preliminary hearing, appellant was held to answer on, inter alia, two counts of possession of a controlled substance for sale (Health & Saf. Code, § 11351; counts 1 & 2) and one count of possession of a firearm by a felon (Pen. Code, § 29800, subd. (a)(1); count 3).

On September 11, 2014, an information was filed alleging those counts again as so numbered. The information alleged as to counts 1 and 2 appellant was personally armed with a firearm (Pen. Code, § 12022, subd. (c)) and alleged as to all counts, inter alia, appellant suffered three prior felony convictions for purposes of the Three Strikes law (Pen. Code, § 667, subd. (d)) and three prior felony convictions for which he served separate prison terms (Pen. Code, § 667.5, subd. (b)). On September 11, 2014, appellant, represented by counsel, waived arraignment and pled not guilty.

On October 15, 2014, appellant made a *Marsden*¹ motion and the court denied it. On November 25, 2014, appellant filed a *Pitchess/Brady*² discovery motion and, on December 10, 2014, the People filed a written opposition.

On December 23, 2014, the court denied appellant's *Pitchess/Brady* motion, appellant made another *Marsden* motion, and the court denied it. Appellant moved to represent himself. Appellant completed and signed a *Faretta*³ waiver form. After appellant was advised of the charges, his constitutional rights, the consequences of his *Faretta* motion, and the dangers and disadvantages of self-representation, the court granted appellant's motion.

On March 26, 2015, after appellant was advised of the nature and consequences of a guilty plea, and was advised of, and waived, his constitutional rights, appellant pled guilty to the charge of possession of a controlled substance (cocaine) for sale (count 2) and admitted he had suffered a strike. Appellant entered the guilty plea with the understanding he would be imprisoned for six years and the People would strike the remaining prior conviction allegations.

The court found there was a factual basis for the plea and admission, and found appellant entered the plea and admission freely and voluntarily. The court accepted the plea and admission, found appellant guilty on count 2, and found true the strike allegation. The court sentenced appellant to prison for six years (the three-year middle term, doubled because of the strike).⁴ The court awarded appellant 744 days of presentence credit, imposed various fines and fees, and required appellant to provide a DNA sample and register as a narcotics offender. The court granted the People's motion

¹ *People v. Marsden* (1970) 2 Cal.3d 118 (*Marsden*).

² *Pitchess v. Superior Court* (1974) 11 Cal.3d 531 (*Pitchess*); *Brady v. Maryland* (1963) 373 U.S. 83 [10 L.Ed.2d 215] (*Brady*).

³ *Faretta v. California* (1975) 422 U.S. 806 [45 L.Ed.2d 562].

⁴ The court ordered that appellant's sentence in this case be served concurrently with appellant's sentence in a federal case.

to dismiss the remaining charges and allegations, subject to the continuing validity of the plea. On April 13, 2015, and May 21, 2015, appellant filed a notice of appeal, and an amended notice of appeal, respectively.⁵

CONTENTIONS

After examination of the record, appointed appellate counsel filed an opening brief which raised no issues and requested this court to conduct an independent review of the record.

By notice filed January 6, 2016, the clerk of this court advised appellant to submit within 30 days any contentions, grounds of appeal, or arguments he wished this court to consider. No response has been received to date.

REVIEW ON APPEAL

We have examined the entire record and are satisfied counsel has complied fully with counsel's responsibilities. (*People v. Wende* (1979) 25 Cal.3d 436, 443; *Smith v. Robbins* (2000) 528 U.S. 259, 278-284.)

⁵ The amended notice of appeal indicated appellant was appealing after entry of a plea of guilty or no contest and the appeal was based on the sentence or other matters occurring after the plea that did not affect its validity.

DISPOSITION

The judgment is affirmed.

HOGUE, J.*

We concur:

EDMON, P. J.

ALDRICH, J.

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.